

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

CIVIL MINUTES - GENERAL

Case No.	CV 11-5880 ODW (FFMx)	Date	November 10, 2011
Title	XPAYS, Inc. v. DOES 1-995		

Present: The Honorable	Frederick F. Mumm, United States Magistrate Judge		
James Munoz	CS 10/25/11	None	
Deputy Clerk	Court Reporter / Recorder	Tape No.	
Attorneys Present for Plaintiff:		Attorneys Present for Defendants:	
None Present		None Present	

Proceedings: **(IN CHAMBERS) ORDER RE DEFENDANT'S MOTION TO QUASH**

Doe 96.247.126.15 ("Doe") has filed a motion requesting (1) an order quashing a subpoena served on Verizon Communications seeking records regarding the moving party from the moving party's internet service provider; and (2) an order severing and dismissing all defendants in excess of one for improper joinder.

The Court finds this motion appropriate for disposition without oral argument.

Doe argues that plaintiff has improperly joined over 900 doe defendants. Doe's contention may be meritorious in that it appears from the complaint that not all defendants participated in the same alleged infringement. However, improper joinder is not a proper basis for quashing a subpoena. The Court also finds that the question of improper joinder is for the District Judge, not the Magistrate Judge to decide.

Doe further argues that the subpoena is burdensome and that plaintiff has issued the subpoena for an improper purpose.

The Court finds that the subpoena does not impose any burden on Doe. Rather, the burden, if any, is imposed on Verizon Communications, who is required to provide certain records that identify Doe. Verizon has not requested any relief from the subpoena. Finally, as to plaintiff's alleged improper purpose, until and unless Doe is severed and dismissed from this action, plaintiff is entitled to take discovery to ascertain the names of those the Complaint alleges infringed plaintiff's copyright.

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Therefore, the motion to quash is denied and the motion for order severing defendant is vacated as being brought before the incorrect judicial officer. This order is without prejudice to Doe's filing a motion to sever and dismiss before the District Judge assigned to this case.

Initials of Preparer JM